



Paper No. 27

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OFFICE OF PETITIONS

In re Application of
Brown, et al.
Application No. 09/196,347
Filed: November 19, 1998
Attorney Docket No. 33536US1

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b),
filed January 15, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 5, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2002. A Notice of Abandonment was mailed on April 18, 2002. Petitioner filed a petition to revive under 37 CFR 1.137(b) on June 26, 2002. However, because petitioner failed to submit the required reply, the petition was dismissed in a decision mailed on November 15, 2002.

With the instant petition, petitioner filed a Continued Prosecution Application (CPA) of the above-identified application under 37 CFR 1.53(d). Because an earlier CPA was filed on or after May 29, 2000¹, the instant request for a CPA is being treated as a Request for Continued Examination (RCE) under 37 CFR 1.114.

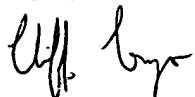
The Change of Correspondence Address filed on December 9, 2002 has not been entered. There is no indication that the person signing the Change of Correspondence Address J(Rodney B. Carroll) was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

¹ Petitioner filed a CPA on January 12, 2001.

Furthermore, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.² In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file is being forwarded to Technology Center 1700 for consideration of the RCE and the submission, an amendment previously filed on June 26, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
Petitions Attorney
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Office of the Deputy Commissioner
for Patent Examination Policy

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² See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).